

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 10, 16, 18 and 29 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 4-10, 12-25 and 27-29 remain pending in this application.

Objections

The specification was objected to for allegedly lacking proper antecedent basis for claimed subject matter. In particular, the Examiner argues that “storage medium,” recited in claims 10 and 29, is absent from the specification. Applicant respectfully disagrees with the Examiner’s position. However, in order to expedite prosecution, Applicant has amended claims 10 and 29 to delete the language objected to by the Examiner. The objection to the specification should now be withdrawn.

Rejections under 35 U.S.C. § 112

Claims 16 and 18 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant has amended these claims to more clearly recite the claimed subject matter. Therefore, Applicant respectfully requests these rejections be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 1, 4-10, 12-21, 24-25 and 27-29 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Number 6,438,124 to Wilkes (hereinafter “Wilkes”). Further, claims 22 and 23 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Wilkes in view of U.S. Patent Number 6,449,278 to Rose. Applicant respectfully traverses these rejections for at least the reasons that follow.

As noted in previous replies by Applicant, embodiments of the present invention provide a gateway between a circuit-switched network, such as a public switched telephone network (PSTN), and the Internet. The gateway of the embodiments of the present invention functions as a transmission node of the network and, accordingly, may be transparent to a user. Rather than the user, it is the PSTN which decides to utilize the gateway for routing certain calls. The users are not involved in the decision. In accordance with certain embodiments, a header in an IP protocol datagram determines whether or not the datagram includes information belonging to a specified channel in a corresponding time slot of a circuit switched network node. Accordingly, claim 1 recites “forming a header for said IP protocol datagram based at least partly on circuit switched channel identifying parameters....” Independent claims 10, 28 and 29 also recite a similar feature.

A. Wilkes fails to teach or suggest forming a header for said IP protocol datagram based at least partly on circuit switched channel identifying parameters

The Examiner cites Wilkes as disclosing that “each VoiceEngine is able to multiplex multiple voice communications at one time coming across the internet” and therefore must include channel identification parameters within the packets. Applicant respectfully disagrees.

Wilkes describes that, though multiple parties may be able to participate in call conferencing service, the destinations are chosen by the subscriber. Further, Wilkes states that the “VoiceEngine is tasked with distributing the signal to multiple destinations as entered by the subscriber from the originating telephone 30.” Wilkes, col. 14, lines 26-28. Thus, a dedicated line is connected between the originating VoiceEngine and origin telephone from which one signal is produced and distributed as determined by the subscriber. In accordance with the disclosure of Wilkes, “in a send mode as shown in FIG. 9A, a plurality of VoiceEngines 34 can receive voice data from a single originating VoiceENGINE (sic) 32.” Wilkes, col. 14, lines 6-8. Further, the multiple receiving VoiceEngines, located between the Internet and destination, are each utilized to connect to a destination phone line. See Wilkes, col. 14, lines 23-30. As previously noted by Applicant, a dedicated line is connected between the destination and the VoiceEngine. Therefore, contrary to assertions made by the

Examiner, the VoiceEngine does not multiplex multiple voice communications, but rather distributes a singular communication signal to multiple locations based on the subscriber. See e.g., Wilkes, col. 14, lines 47-65, and Fig. 10. Again, the VoiceEngine of Wilkes acts as a terminal, not as a gateway.

The Examiner also argues that, due to the multiplexing of the voice data, such data must be sent in packets which are separated into time slots. Applicant respectfully disagrees. As discussed above, the alleged multiplexing disclosed in Wilkes is accomplished through distribution of a single signal through pre-selection of destinations by the subscriber and not through channel identification parameters and time slots. Wilkes fails to teach or suggest any separation into time slots.

B. The acknowledged deficiency of Wilkes is not obvious

As acknowledged by the Examiner, Wilkes fails to teach or suggest “indicating within said IP protocol datagram separately for each of a plurality of time slots known to at least one of said first and second circuit switched network nodes, whether the IP protocol datagram carries data belonging to a channel corresponding to the time slot, so that when it is indicated that the IP protocol datagram does not carry data belonging to a channel, the second circuit switched network node is allowed to receive data to that channel from other sources from an IP-network in a non-consecutive manner,” as recited in pending claim 1. See Office Action dated March 23, 2009, page 5. The Examiner argues that “it would have been obvious to one of ordinary skill in the art ... that each header of each packet sent by the initiating VoiceEngine identifies which voice connection the packet belongs, as well as which time slot the voice data corresponds.” Office Action dated March 23, 2009, page 5.

Specifically, the Examiner argues that “since the VoiceEngines multiplex multiple voice connections going to multiple telephones at each end, it is clear that such would require packets belonging to multiple voice connections, requiring the VoiceEngine to separate them according to the proper channel that they should go on, thereby allowing the VoiceEngine to receive data to that channel from other sources from an IP-network in a non-consecutive manner.” Office Action dated March 23, 2009, pages 5-6. Applicant respectfully disagrees with the Examiner for at least the following reasons.

First, Applicant respectfully notes that, “[t]o establish a *prima facie* case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2142. The Examiner does not cite any prior art reference which teaches or suggests the above-noted feature. Thus, the Examiner fails to establish a *prima facie* case of obviousness.

Second, even if the Examiner’s interpretation of the disclosure of multiplexing in Wilkes is accepted, it is unreasonable to conclude that the above-noted feature would be obvious to one of ordinary skill in the art. The mere existence of multiplexing does not lead to “allowing the VoiceEngine to receive data to that channel from other sources from an IP-network in a non-consecutive manner,” as alleged by the Examiner.

Third, the Examiner appears to be arguing that the feature recited in the claims is inherent in the disclosure of Wilkes. In this regard, Applicant respectfully notes that “[t]he express, implicit, and inherent disclosure of a prior art reference may be relied upon in the rejection of claims under 35 U.S.C. 102 or 103.” M.P.E.P. § 2112. However, the requirements for inherency have been made clear by the courts.

“To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed.Cir. 1999) (citations omitted) (cited in M.P.E.P. § 2112(IV)).

The above-noted feature is not inherent in the system of Wilkes and is not disclosed, either implicitly or explicitly in the disclosure of Wilkes. As noted above, the mere existence of multiplexing does not lead to “allowing the VoiceEngine to receive data to that channel from other sources from an IP-network in a non-consecutive manner.”

Conclusion

Thus, independent claims 1, 10, 28 and 29 are patentable. Claims 4-9, 12-25 and 27 each depend from one of allowable claims 1, 10 or 28 and are, therefore, patentable for at

least that reason, as well as for additional patentable features when those claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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